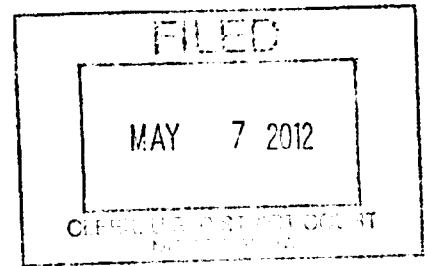


**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**



JAMES EARL LEONARD, #1005449,

Petitioner,

v.

ACTION NO. 2:11cv492

HAROLD W. CLARKE,

Respondent.

FINAL ORDER

Petitioner, a Virginia inmate, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to Petitioner's conviction on December 2, 2008, in the Circuit Court for the City of Culpepper for abduction. As a result of the conviction, Petitioner was sentenced to serve ten years in the Virginia penal system with four years suspended.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed March 21, 2012, recommends dismissal of the petition with prejudice. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired.

The Court accepts the findings and recommendations set forth in the Report and Recommendation filed March 21, 2012. The Sixth Amendment portion of Ground (1) alleging a constitutional violation of Leonard's speedy trial rights is DENIED because it was never


adjudicated by the Supreme Court of Virginia and the claim is procedurally defaulted. The portion of Ground (1) based on Virginia's statute is DENIED because questions of state law are not cognizable on federal habeas review. Ground (2), alleging insufficient evidence of abduction, is DENIED because the Virginia state court reasonably applied clearly established federal law, and based the decision to deny this claim on a reasonable determination of the facts.

Accordingly, Respondent's Motion to Dismiss is GRANTED, and the petition is DENIED and DISMISSED with prejudice. It is further ORDERED that judgment be entered in favor of Respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.



Mark S. Davis
United States District Judge

Mark S. Davis
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
~~April~~, 2012
May 7, 2012